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26 MAY 1976

MEMORANDUM FOR: Chairman
DCI Security Committee

SUBJECT : Proposed Executive Order Re Suitability
Requirements for Government Employment

1. The general reaction to the proposed Executive Order within the Office of Security and other CIA components was negative. Among potential problems identified are:

a. The draft, unlike E.O. 10450, is not limited to the setting of security criteria. It is an omnibus effort, which, under the catch-all of "suitability" involves the personnel function of evaluation of job related qualifications, applicant or employee protection before and after adjudication, and disposition time for investigative reports.

b. Presumably by design, security standards are vague, as illustrated in the draft provision that "infamous or notoriously disgraceful conduct" warrants disqualification. What constitutes such conduct is not defined and there is no criteria concerning morals. E.O. 10450 specifies that sexual deviation is a basis for disapproval. Under the proposed Executive Order it is possible and perhaps probable that declared homosexuals will be granted Top Secret clearances. Further, it is likely that such matters as promiscuity, flagrant adultery and cohabitation will not figure as negative factors in granting or retaining clearances.

c. It can be projected that fewer individuals will be disapproved. Standards for adjudication will include as mitigating circumstances "contributing social or environmental conditions" and "the absence or presence of rehabilitation or effort toward rehabilitation."

2. The Office of Security has monitored drafting of the proposal through several versions. In our opinion,

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the present version is the best that can be expected. Although we feel the investigative criteria is not adequate for Positions of Trust, it is an improvement over the existing CSC Standards and a five-year investigative cutoff recently proposed by the Department of Defense.

3. If our projection that the final draft of the Order will not strengthen security standards is accepted, the Intelligence Community then faces a situation where investigative coverage established for the Government in general does not meet the criteria set for access to compartmented clearance information or liaison approval purposes. The Community could not accept clearance certifications based on the proposed coverage and additional investigation would have to be conducted.

4. The most serious question raised by the draft, as it is written, involves the status of the Agency and the Intelligence Community with respect to the exception granted CIA, NSA, and the FBI. It would appear that the exception is intended to be limited to the Investigation and Adjudication Program only. We contend that the Agency, and by projection of the authority of the DCI, the entire Intelligence Community, requires a total exception in order to protect classified intelligence information and information concerning sources and methods. Three alternatives have been suggested to meet the requirement:

a. Work for inclusion of a total exemption within the proposed replacement of E.O. 10450. A negative presumption might be associated with this approach if CIA introduced the idea unilaterally, thus allowing an interpretation of action not in concert with the Community.

b. Establish security standards for the Agency and the Community based on E.O. 11905 under the stated provision that the DCI shall "...insure the establishment, by the Intelligence Community, of common security standards for managing and handling foreign intelligence systems, information and products, and for granting access thereto." This approach is

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adequate with respect to setting security standards for the Community more comprehensive than for general Government, but does not necessarily negate the myriad of problems associated with CSC oversight.

c. Within NFIB and SECOM, work for creation of a new Executive Order which will grant the Intelligence Community a total exception and, in effect, recognize and direct that intelligence data including that relating to sources and methods, must be protected by security criteria more stringent than that which will suffice for general Government.

5. Unfortunately, any of the alternatives would defeat the primary purpose of the proposed order, uniformity throughout Government in "suitability" requirements for employment. In anticipation of the use of this circumstance as an argument against one or all of the alternatives, it is submitted that the concept of different clearance standards has considerable merit. Current emphasis on privacy and the contemporary attitude toward what does and does not constitute improper behavior have created an atmosphere which forced review of E.O. 10450. The provisions of the proposed Order to supersede E.O. 10450 certainly have considered change and, at the same time, incorporate security precautions which reflect awareness that the clearance procedure serves the national interest. Conversely, there is ample historical evidence to support a contention that intelligence information warrants protection above and beyond that afforded general Government data. Our proposals are not illegal. Neither are they obstructive. Rather, they are an extension of existing precautions, which experience has shown are minimal in terms of serving the nation in obtaining and protecting intelligence.

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for Robert W. Gambino
CIA Member
DCI Security Committee

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